

## SMOKE-FREE ARIZONA ACT FAQ's for Restaurants and Bars

**1) What is the definition of an outdoor patio? Can I let customers smoke on my patio that has just one open side?**

An "outdoor patio" may be designated as such by a proprietor as long as the patio is adjacent to a place of employment or public place and as long as the proprietor controls the place of employment or public place. Yes, the outdoor patio must have **at least** one open side, whether it is the ceiling or a wall. "Open" may be open space, permeable material (i.e. shade cloth, wrought iron bars, etc...), or a combination of both.

**2) Is my outdoor patio designated for smoking and located in the back of my restaurant required to be a reasonable distance (20 feet) from the patio door?**

No. Outdoor patios are one of the seven exemptions of the Law. Outdoor patios that are not 20 feet from the patio door may be designated as smoking patios so long as tobacco smoke does not enter into non-smoking areas.

**3) What if my outdoor patio is located in the front of my establishment and less than 20 feet from the entrance into my establishment?**

Smoking on this patio may still be allowed as long as the outdoor patio has a solid (non-permeable) wall or mechanical devices (i.e. blower, air curtain, etc...) that allow an individual to avoid breathing tobacco smoke when using the entrance and does not permit tobacco smoke to enter the establishment through entrances, open windows, permeable components of ventilation systems, or other means.

**4) Can my employees serve food to customers smoking on the outdoor patio?**

Yes. The Law does not prohibit employees from serving customers on the outdoor patios.

**5) How far from employee entrances must my employees go to smoke outside?**

20 feet. Employees that are smoking must be a reasonable distance (20 feet) from all establishment entrances, open windows, and permeable components of ventilation systems, with the exception of emergency exits and doorways designated for outdoor patio patrons.

**6) Would I be in violation of the law if people smoke on the city sidewalk in front of my establishment since I don't control that space or if my landlord owns the sidewalk in front of my establishment?**

No. You are only responsible for the areas in which you control. You are responsible for posting "no smoking" signs at all entrances, removing ashtrays from all non-smoking areas in which you control, educating your current and prospective employees, and prohibiting smoke from entering into your establishment.

**7) What should I do if a customer inside my restaurant or another non-smoking area complains about the Smoke-Free Act and refuses to stop smoking?**

Initially, listen to what they have to say. Explain that the purpose of the Law is not to keep them from smoking, but to protect the health of your employees and other customers. If you feel threatened or at risk, call the police immediately. The police will be permitted to remove the individual from the establishment.

**8) Will I be in violation of the Law if an inspector finds ashtrays in my establishment?**

Yes, you will be in violation if there is evidence that the ashtrays are being used in non-smoking areas; however if the inspector finds that the ashtrays are inside only because they are being washed or stored, you will not be in violation.

**9) Can I post my "no smoking" signs inside my establishment rather than outside?**

No, the "no smoking" signs must be posted at all entrances in a conspicuous location visible from the outside of the establishment; however, you can post "no smoking" window clings inside affixed to the door or window if visible from the outside.

**10) Can a Restaurant or Bar selling tobacco products be considered exempt as a Retail Tobacco Store?**

No, a facility with a liquor license that allows alcoholic beverages to be served for consumption on site is a bar. A facility with a food establishment license that allows food to be served for consumption on site is a restaurant. Neither a bar nor restaurant selling tobacco products is a "retail tobacco store" under the Smoke-Free Arizona Act. Since a bar or a restaurant is neither a "retail tobacco store" nor capable of transforming itself into a "retail tobacco store," a bar or a restaurant cannot fall under the smoking exception provided to a "retail tobacco store" under the Act. See Substantive Policy Statement #SP-086-PHS-EDC for more information.

